

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

WILLIAM JONES,

Petitioner,

v.

//

CIVIL ACTION NO. 1:11CV167
(Judge Keeley)

DENNIS DINGUS,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On October 17, 2011, the pro se petitioner, William Jones ("Jones"), filed a petition pursuant to 28 U.S.C. § 2254. The Court referred this matter to United States Magistrate Judge John S. Kaull for initial screening and a report and recommendation in accordance with LR PL P 2. On December 7, 2011, the Magistrate Judge issued a Hill v. Braxton notice to the petitioner, notifying him that his § 2254 petition appeared to be untimely and would be dismissed unless he demonstrated, within twenty-eight (28) days, that the petition was timely filed or that he was entitled to equitable tolling. (Dkt. No. 11). Jones filed no response.

On March 19, 2012, Magistrate Judge Kaull issued an Opinion and Report and Recommendation ("R&R"), in which he recommended that Jones' § 2254 petition be denied and dismissed with prejudice. (Dkt. No. 14). The magistrate judge found that the instant petition is actually Jones' third § 2254 petition and, as he has failed to obtain authorization from the United States Court of Appeals for the Fourth Circuit to file a successive petition, it must be

ORDER ADOPTING REPORT AND RECOMMENDATION

dismissed irrespective of its timeliness.

The R&R also specifically warned Jones that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. Jones did not file any objections.* Consequently, finding no clear error, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 14), **DENIES** the § 2254 petition (dkt. no 1), and **ORDERS** that this case be **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: September 24, 2012.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE

* The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).